

for the protection of classified materials.

(5) This part also applies to the shipment of irradiated reactor fuel in quantities that in a single shipment both exceed 100 grams in net weight of irradiated fuel, exclusive of cladding or other structural or packaging material, and have a total radiation dose in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding.

(6) This part prescribes requirements for the physical protection of spent nuclear fuel and high-level radioactive waste stored in either an independent spent fuel storage installation (ISFSI) or a monitored retrievable storage (MRS) installation licensed under part 72 of this chapter, or stored at the geologic repository operations area licensed under part 60 or part 63 of this chapter.

(7) This part prescribes requirements for the protection of Safeguards Information in the hands of any person, whether or not a licensee of the Commission, who produces, receives, or acquires Safeguards Information.

(8) This part prescribes requirements for advance notice of export and import shipments of special nuclear material, including irradiated reactor fuel.

(9) As provided in part 76 of this chapter, the regulations of this part establish procedures and criteria for physical security for the issuance of a certificate of compliance or the approval of a compliance plan.

[44 FR 68186, Nov. 28, 1979, as amended at 45 FR 67645, Oct. 14, 1980; 45 FR 80271, Dec. 4, 1980; 46 FR 51724, Oct. 22, 1981; 47 FR 57482, Dec. 27, 1982; 52 FR 9653, Mar. 26, 1987; 53 FR 31683, Aug. 19, 1988; 53 FR 45451, Nov. 10, 1988; 59 FR 38899, Aug. 1, 1994; 59 FR 48960, Sept. 23, 1994; 63 FR 26962, May 15, 1998; 66 FR 55816, Nov. 2, 2001]

#### § 73.2 Definitions.

As used in this part:

(a) Terms defined in parts 50 and 70 of this chapter have the same meaning when used in this part.

*Appropriate Nuclear Regulatory Commission Regional Office listed in appendix A* means:

(1) For domestic shipments—the Regional Office within whose region the licensee who is responsible for the

physical protection arrangements of the shipment is located.

(2) For export shipments—the Regional Office within whose region the licensee who is responsible for the physical protection arrangements of the shipment is located, and the Regional Office for the region in which the last point of exit of the shipment from the U.S. is located.

(3) For import shipments—the Regional Office within whose region the licensee who is responsible for the physical protection arrangements of the shipment is located, and the Regional Office for the region in which the first point of entry of the shipment into the U.S. is located.

*Armed escort* means an armed person, not necessarily uniformed, whose primary duty is to accompany shipments of special nuclear material for the protection of such shipments against theft or radiological sabotage.

*Armed response personnel* means persons, not necessarily uniformed, whose primary duty in the event of attempted theft of special nuclear material or radiological sabotage shall be to respond, armed and equipped, to prevent or delay such actions.

*Authorized individual* means any individual, including an employee, a student, a consultant, or an agent of a licensee who has been designated in writing by a licensee to have responsibility for surveillance of or control over special nuclear material or to have unescorted access to areas where special nuclear material is used or stored.

*Bullet/resisting* means protection against complete penetration, passage of fragments of projectiles, and spalling (fragmentation) of the protective material that could cause injury to a person standing directly behind the bullet-resisting barrier.

*Contiguous sites* means licensee controlled locations, deemed by the Commission to be in close enough proximity to each other, that the special nuclear material must be considered in the aggregate for the purpose of physical protection.

*Continuous visual surveillance* means unobstructed view at all times of a shipment of special nuclear material,

and of all access to a temporary storage area or cargo compartment containing the shipment.

*Controlled access area* means any temporarily or permanently established area which is clearly demarcated, access to which is controlled and which affords isolation of the material or persons within it.

*Deceit* means methods used to attempt to gain unauthorized access, introduce unauthorized materials, or remove strategic special nuclear materials, where the attempt involves falsification to present the appearance of authorized access.

*DOE and Department of Energy* means the Department of Energy established by the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101 *et seq.*), to the extent that the Department, or its duly authorized representatives, exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Pub. L. 93-438, 88 Stat. 1233 at 1237, 42 U.S.C. 5814) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565 at 577-578, 42 U.S.C. 7151).

*Force* means violent methods used by an adversary to attempt to steal strategic special nuclear material or to sabotage a nuclear facility or violent methods used by response personnel to protect against such adversary actions.

*Formula quantity* means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium). This class of material is sometimes referred to as a Category I quantity of material.

*Guard* means a uniformed individual armed with a firearm whose primary duty is the protection of special nuclear material against theft, the protection of a plant against radiological sabotage, or both.

*Incendiary device* means any self-contained device intended to create an in-

tense fire that can damage normally flame-resistant or retardant materials.

*Intrusion alarm* means a tamper indicating electrical, electromechanical, electrooptical, electronic or similar device which will detect intrusion by an individual into a building, protected area, vital area, or material access area, and alert guards or watchmen by means of actuated visible and audible signals.

*Isolation zone* means any area adjacent to a physical barrier, clear of all objects which could conceal or shield an individual.

*Lock* in the case of vaults or vault type rooms means a three-position, manipulation resistant, dial type, built-in combination lock or combination padlock and in the case of fences, walls, and buildings means an integral door lock or padlock which provides protection equivalent to a six-tumbler cylinder lock. *Lock* in the case of a vault or vault type room also means any manipulation resistant, electromechanical device which provides the same function as a built-in combination lock or combination padlock, which can be operated remotely or by the *reading* or insertion of information, which can be uniquely characterized, and which allows operation of the device. *Locked* means protected by an operable lock.

*Material access area* means any location which contains special nuclear material, within a vault or a building, the roof, walls, and floor of which each constitute a physical barrier.

*Movement control center* means an operations center which is remote from transport activity and which maintains periodic position information on the movement of strategic special nuclear material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

*Need to know* means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment.

*Person* means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy (DOE), (except that the DOE shall be considered a person to the extent that its facilities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 and sections 104, 105, and 202 of the Uranium Mill Tailings Radiation Control Act of 1978), any state or political subdivision of a state, or any political subdivision of any government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

*Physical barrier* means:

(1) Fences constructed of No. 11 American wire gauge, or heavier wire fabric, topped by three strands or more of barbed wire or similar material on brackets angled inward or outward between 30° and 45° from the vertical, with an overall height of not less than eight feet, including the barbed topping;

(2) Building walls, ceilings and floors constructed of stone, brick, cinder block, concrete, steel or comparable materials (openings in which are secured by grates, doors, or covers of construction and fastening of sufficient strength such that the integrity of the wall is not lessened by any opening), or walls of similar construction, not part of a building, provided with a barbed topping described in paragraph (1) of this definition of a height of not less than 8 feet; or

(3) Any other physical obstruction constructed in a manner and of materials suitable for the purpose for which the obstruction is intended.

*Protected area* means an area encompassed by physical barriers and to which access is controlled.

*Radiological sabotage* means any deliberate act directed against a plant or transport in which an activity licensed pursuant to the regulations in this chapter is conducted, or against a component of such a plant or transport which could directly or indirectly endanger the public health and safety by exposure to radiation.

*Safeguards Information* means information not otherwise classified as National Security Information or Restricted Data which specifically identifies a licensee's or applicant's detailed, (1) security measures for the physical protection of special nuclear material, or (2) security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities.

*Security management* means persons responsible for security at the policy and general management level.

*Security Storage Container* includes any of the following repositories: (1) For storage in a building located within a protected or controlled access area, a steel filing cabinet equipped with a steel locking bar and a three position, changeable combination, GSA approved padlock; (2) A security filing cabinet that bears a Test Certification Label on the side of the locking drawer, or interior plate, and is marked, *General Services Administration Approved Security Container* on the exterior of the top drawer or door; (3) A bank safe-deposit box; and (4) Other repositories which in the judgement of the NRC, would provide comparable physical protection.

*Security supervision* means persons, not necessarily uniformed or armed, whose primary duties are supervision and direction of security at the day-to-day operating level.

*Special nuclear material of low strategic significance* means:

(1) Less than an amount of special nuclear material of moderate strategic significance as defined in paragraph (1) of the definition of strategic nuclear material of moderate strategic significance in this section, but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in U-235 isotope) or 15 grams of uranium-233 or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = (grams contained U-235) + (grams plutonium) + (grams U-233); or

(2) Less than 10,000 grams but more than 1,000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope); or

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(3) 10,000 grams or more of uranium-235 (contained in uranium enriched above natural but less than 10 percent in the U-235 isotope).

This class of material is sometimes referred to as a Category III quantity of material.

*Special nuclear material of moderate strategic significance* means:

(1) Less than a formula quantity of strategic special nuclear material but more than 1,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or more than 500 grams of uranium-233 or plutonium, or in a combined quantity of more than 1,000 grams when computed by the equation, grams = (grams contained U-235) + 2 (grams U-233 + grams plutonium); or

(2) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope).

This class of material is sometimes referred to as a Category II quantity of material.

*Stealth* means methods used to attempt to gain unauthorized access, introduce unauthorized materials, or remove strategic special nuclear material, where the fact of such attempt is concealed or an attempt is made to conceal it.

*Strategic special nuclear material* means uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium-233, or plutonium.

*Tactical Response Team* means the primary response force for each shift which can be identified by a distinctive item of uniform, armed with specified weapons, and whose other duties permit immediate response.

*Transport* means any land, sea, or air conveyance or modules for these conveyances such as rail cars or standardized cargo containers.

*Undergoing processing* means performing active operations on material such as chemical transformation, physical transformation, or transit between such operations, to be differentiated from storage or packaging for shipment.

*Vault* means a windowless enclosure with walls, floor, roof and door(s) de-

signed and constructed to delay penetration from forced entry.

*Vault-type room* means a room with one or more doors, all capable of being locked, protected by an intrusion alarm which creates an alarm upon the entry of a person anywhere into the room and upon exit from the room or upon movement of an individual within the room.

*Vital area* means any area which contains vital equipment.

*Vital equipment* means any equipment, system, device, or material, the failure, destruction, or release of which could directly or indirectly endanger the public health and safety by exposure to radiation. Equipment or systems which would be required to function to protect public health and safety following such failure, destruction, or release are also considered to be vital.

*Watchman* means an individual, not necessarily uniformed or armed with a firearm, who provides protection for a plant and the special nuclear material therein in the course of performing other duties.

[38 FR 35430, Dec. 28, 1973, as amended at 39 FR 2352, Jan. 21, 1974; 40 FR 52841, Nov. 13, 1975; 42 FR 10838, Feb. 24, 1977; 43 FR 37425, Aug. 23, 1978; 44 FR 43282, July 24, 1979; 44 FR 68187, Nov. 28, 1979; 45 FR 14201, Mar. 5, 1980; 46 FR 51724, Oct. 22, 1981; 53 FR 45451, Nov. 10, 1988; 55 FR 51401, Dec. 14, 1990; 57 FR 33429, July 29, 1992]

### § 73.3 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretations of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized as binding upon the Commission.

### § 73.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent as follows:

(a) By mail addressed to: ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation, Director, Office of Nuclear Material Safety and Safeguards, or Director, Division of